

AMENDMENTS TO THE CLAIMS:

1 Claim 1 (currently amended): A writing instrument comprising:
2 Sub.B1 a barrel having a channel, with an open end, and a side surface; and
3 an actuator located on said side surface of said barrel; and
4 a writing element disposed in said channel and movable along a longitudinal
5 axis between a retracted position and an extended position;
6 wherein:
7 said writing element is operatively connected to said actuator;
8 at least a portion of said writing element is resilient;
9 said writing element is deflected in a direction substantially transverse
10 to the longitudinal axis upon being moved into said extended position; and
11 the resiliency of said writing element biases said writing element to
12 engage said channel and to retain said writing element in said extended position.

1 Claim 2 (original): The writing instrument of claim 1, wherein said writing element is
2 bent such that the resiliency of said writing element biases said writing element to engage
3 said channel.

1 Claim 3 (original): The writing instrument of claim 1, further comprising a first
2 engagement member associated with said writing element, wherein said first engagement
3 member engages said channel.

1 Claim 4 (original): The writing instrument of claim 3, wherein said first engagement
2 member is a pawl.

1 Claim 5 (original): The writing instrument of claim 4, further comprising a second
2 engagement member associated with said channel, wherein said first engagement member
3 engages said second engagement member.

1 Claim 6 (original): The writing instrument of claim 5, wherein said second
2 engagement member is an indentation formed on said channel.

1 Claim 7 (original): The writing instrument of claim 5, wherein said second
2 engagement member is a ledge formed on said channel.

1 Claim 8 (original): The writing instrument of claim 1, further comprising a sleeve
2 member disposed in said channel for receiving a portion of said writing element, wherein said
3 sleeve member engages said channel to retain said writing element in said extended position.

1 Claim 9 (original): The writing instrument of claim 8, further comprising a first
2 engagement member located on said sleeve member.

1 Claim 10 (original): The writing instrument of claim 1, wherein said writing element
2 is a living spring.

A 1 Claim 11 (currently amended): A writing instrument comprising:
2 a barrel having an open end, a closed end, and a channel extending between
3 said with an open end and said closed end; and
4 a writing element having a writing end, said writing element being disposed in
5 said channel and movable along a longitudinal axis between a retracted position with said
6 writing end within said channel and an extended position with said writing end extending
7 through and outside said open end, and biased toward said retracted position;
8 wherein:
9 said writing element resiliently engages said channel to retain said
10 writing element in said extended position; and
11 movement of said writing element in a direction substantially
12 transverse to the longitudinal axis disengages said writing element from said channel to
13 return said writing element to said retracted position.

1 Claim 12 (original): The writing element of claim 11, wherein movement of said
2 writing element in a direction substantially transverse to the longitudinal axis is caused by
3 bending said writing element.

1 Claim 13 (original): The writing instrument of claim 11, wherein said writing element
2 is resilient.

1 Claim 14 (original): The writing instrument of claim 11, further comprising a release
2 member located on a side surface of said barrel and movable from a rest position to a release
3 position;

4 wherein movement of said release member to said release position disengages
5 said writing element from said channel.

1 Claim 15 (original): The writing instrument of claim 14, wherein movement of said
2 release member to said release position bends said writing element in a direction substantially
3 transverse to the longitudinal axis.

1 Claim 16 (original): The writing instrument of claim 14, further comprising a first
2 engagement member associated with said writing element, said first engagement member
3 configured and dimensioned to engage said channel and to retain said writing element in said
4 extended position.

A 1 Claim 17 (original): The writing instrument of claim 16, wherein a portion of said
2 release member contacts said first engagement member.

1 Claim 18 (original): The writing instrument of claim 16, wherein a portion of said
2 release member contacts said writing element at a location spaced apart from said release
3 member.

1 Claim 19 (original): The writing instrument of claim 14, wherein said release member
2 is a cantilever beam.

1 Claim 20 (original): The writing instrument of claim 14, further comprising a grip
2 element covering at least a portion of said release member.

1 Claim 21 (original): The writing instrument of claim 14, wherein said release member
2 is pivotably coupled to said barrel.

1 Claim 22 (original): The writing instrument of claim 14, further comprising a grip
2 element formed on said barrel, wherein said release member comprises a portion of said grip
3 element.

1 Claim 23 (original): The writing instrument of claim 11, further comprising a sleeve
2 member disposed in said channel for receiving a portion of said writing element, wherein said
3 sleeve member resiliently engages said channel to retain said writing element in said
4 extended position.

1 Claim 24 (original): The writing instrument of claim 23, further comprising a first
2 engagement member located on said sleeve member.

A 1 Claim 25 (currently amended): A writing instrument comprising:
2 a barrel having a substantially straight longitudinal channel and an open end
3 through which a writing element is extendable along a longitudinal axis; and
4 an actuator member disposed on a side surface of said barrel and movable
5 between a first position defining a first length between said actuator member and said open
6 end along the longitudinal axis, and a second position defining a second length between said
7 actuator member and said barrel open end along the longitudinal axis, said second length
8 being shorter than said first length;
9 wherein said actuator member moves along a non-linear path between said
10 first position and said second position.

1 Claim 26 (original): The writing instrument of claim 25, wherein said actuator
2 member pivots as it moves between said first position and said second position.

1 Claim 27 (original): The writing instrument of claim 25, wherein said actuator
2 member moves along an arcuate path between said first position and said second position.

1 Claim 28 (original): The writing instrument of claim 25, wherein said actuator
2 member is disposed on a non-planar surface, and slides along said non-planar surface
3 between said first position and said second position.

1 Claim 29 (original): The writing instrument of claim 25, wherein said non-planar
2 surface is concave.

1 Claim 30 (original): The writing instrument of claim 25, further comprising a writing
2 element disposed
3 in said channel and moveable between a retracted position and an extended position;
4 wherein:

5 said writing element is in said retracted position when said actuator member is
6 in said first position; and

7 said writing element is in said extended position when said actuator member is
8 in said second position.

1 Claim 31 (original): The writing instrument of claim 30, wherein said writing element
2 is pivotably coupled to said actuator element.

1 Claim 32 (original): The writing instrument of claim 25, further comprising a sleeve
2 member disposed in said channel for receiving a portion of a writing element, wherein said
3 sleeve member is pivotably coupled to said actuator member.

1 Claim 33 (new): The writing instrument of claim 1, wherein said writing element
2 returns to a substantially straight configuration when in said extended position.